

### **REMARKS**

Applicants have received and carefully reviewed the Final Office Action dated October 23, 2006 regarding the above-referenced patent application. Claims 1-32 are pending; claim 1-11 have been rejected; and claims 12-32 have been withdrawn.

#### ***Claim Rejections under 35 U.S.C. § 102(b)***

Claims 1-11 were rejected under 35 U.S.C. 102(b) as being anticipated by Dobak, III et al. (U.S. Patent No. 6,245,095, hereinafter "Dobak"). Applicants respectfully traverse the rejection.

Claim 1 recites "A medical device, comprising: an elongate core member...a polymer jacket disposed over at least a portion...of the core member." Applicants have carefully reviewed Dobak and do not believe that Dobak discloses a polymer jacket, and for at least this reason does not anticipate the claimed invention.

In support of the anticipation rejection, the Examiner cites element 20 as being a polymer jacket. However, Applicants can find nowhere in Dobak any teaching that element 20 is polymeric. The material of element 20 is not discussed directly. However, Dobak teaches that element 20 is one of a series of elongate, articulated segments or modules that make up the heat transfer element 14, of which there is some discussion regarding the material.<sup>1</sup> "[T]he heat transfer element is made of a high thermal conductivity material, such as metal."<sup>2</sup> "The exterior surfaces of the heat transfer element 14 can be made from metal, and may comprise very high thermal conductivity materials such as nickel, thereby facilitating heat transfer."<sup>3</sup> Applicants have read Dobak carefully and found nothing to suggest that element 20 is made from a polymer. In contrast, Dobak et al. teach that tube 42 "may be constructed of a non-thermally conductive material like polytetrafluoroethylene or some other polymer."<sup>4</sup> This suggests that Dobak was certainly aware that one could construct components from polymer and that because polymer is "non-thermally conductive," it is not a suitable material for element 20, which Dobak teaches needs to be made from a high thermal conductivity material. In view of the foregoing remarks, Applicants respectfully submit that Dobak does not teach that element 20 is polymeric.

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<sup>1</sup> Column 9, lines 46-48.

<sup>2</sup> Column 9, lines 5-7.

<sup>3</sup> Column 10, lines 35-38.

<sup>4</sup> Column 11, lines 19-21.

Applicants foresee the possibility that the rejection of claim 1 may be (incorrectly) maintained in view of the following recitation in Dobak: "Alternatively, other metals...can be used, with or without an appropriate coating or treatment to enhance biocompatibility or inhibit clot formation. Suitable biocompatible coatings include, e.g., gold, platinum or polymer paralyene (sic)."<sup>5</sup> However, Applicants would respectfully forestall any rejection based on this teaching by pointing out that such coatings are not jackets and, furthermore, are not jackets having a textured outer surface.

We know that these coatings are very thin. As discussed above, the thermal conductivity of the heat transfer element is an important consideration for Dobak. As Dobak recognizes that the potential rate of heat transfer decreases as the thickness of the coating or of the heat transfer element itself increases, Dobak uses the terms "coating" and "treatment," terms that denote a very thin or negligible layer of material. Further, the three materials mentioned, gold, platinum and polymer parylene, can be applied by vapor deposition, which allows very thin layers of material.<sup>6</sup> In this art area, Applicants have never seen such an extremely thin layer referred to as a jacket by one of skill in the art.

Further, Dobak does not teach that the coating has a textured outer surface. Such coatings conform to the texture of the underlying material and do not in themselves provide textures. Like paint over stucco on the exterior wall of a house, the outer surface has a texture but the texture is of the underlying material (in this case, the heat transfer element). Just as one talks about the texture of the stucco and not of the paint, one of skill in this art area would talk about the shape of the heat transfer element. One of skill in this art area would not talk about the coating of Dobak as having a textured outer surface. While a coating can have a texture (one may think about the rubberized coating on a grip), it is not inherent. A coating may be essentially smooth and merely conform to the shape of the underlying structure. As Dobak does not teach a coating having a textured outer surface, it cannot be said that the coating of Dubak inherently has a textured outer surface. What texture Dubak teaches is that of the heat transfer element and not of the coating.

For at least the foregoing reasons, Applicants respectfully submit that Dubak do not teach a polymer jacket as recited in claims 1 or 6, and because Dubak does not teach or suggest all the

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<sup>5</sup> Column 10, lines 37-42.

<sup>6</sup> Indeed, Applicants understand polymer parylene to be unusual among polymers typically used in intravascular applications in its ability to be applied using vapor deposition.

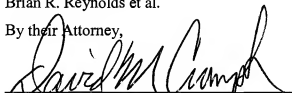
elements of the claims 1 or 6, these claims are in condition for allowance. As claims 2-5 and 7-11 depend from claim 1 and contain additional elements, Applicants respectfully submit that these claims are in condition for allowance as well.

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By their Attorney,



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